IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 39 OF 2004

1. Mr. Bhikaji Fatu Parab
   s/o late Mr. Fatu Parab,
   agriculturist, resident of Madhalawado,
   Paliyem, Pernem, Goa.

2. Mr. Bhiva Sakaram Parab
   s/o late Mr. Sakharam Parab,
   retired, resident of Madhalawado,
   Paliyem, Pernem, Goa.

3. Mr. Anant Mahadev Parab
   s/o late Mr. Mahadev Parab
   agriculturist, resident of Mirzawada,
   Paliyem, Pernem, Goa.

4. Mr. Ravindra Atchut Parab
   s/o late Mr. Atchut Parab
   service, resident of Devulwada,
   Paliyem, Pernem, Goa. .... Appellants

Versus

1. Mr. Bhumika Vetal Devasthan
   Paliyem, Pernem, Goa,
   through its attorney Mr. Madan Parab
   resident of Paliyem, Pernem, Goa.

2. Mr. Sadashiv Vishnu Parab
   s/o late Vishnu Parab
   service, resident of Parabwaddo, Paliyem,
   Pernem, Goa.

3. Mr. Madan Jairam Parab
   s/o late Mr. Jairam Parab,
   Attorney/Procurador of the

Bhumika Vethal Devasthan.

4. Mr. Dayanand Hiru Parab
s/o late Mr. Hiru Parab,
service, resident of Mizalwaddo Paliyem,
Pernem, Goa, Vice President of
Bhumika Vethal Devasthan.

5. Mr. Nauso Sagun Parab
son of late Sagun Parab,
retired, resident of Devulwado, Paliyem,
Pernem, Goa, Treasurer of the
Bhumika Vetal Devasthan.

6. Mr. Sadguru Tukaram Parab
s/o late Mr. Tukaram Parab
business, resident of Devulwaddo, Paliyem,
Pernem, Goa, Ex-joint Treasurer of the
Bhumika Vethal Devasthan.

7. Mr. Shashikanth Tukaram Tilve
s/o lare Mr. Tukaram Tilve
retired, resident of Devulwaddo, Paliyem,
Pernem, Goa, Ex-Secretary of the
Bhumika Vethal Devasthan.

8. Mr. Dayanand Lavu Parab,
s/o. Late Lavu Parab,
business, resident of Naikwado, Paliyem,
Pernem, Goa, Joint Treasurer of the
Bhumika Vethal Devasthan.

9. Mr. Baburao Babaji Tilve,
business, resident of Devulwaddo, Paliyem,
Pernem, Goa, Secretary of the
Bhumika Vethal Devasthan.

10. Mr. Chandrakant Krishna Tilve,
retired, Asst. Secretary,

resident of Deulwaddo, Paliem,
Pernem, Goa.

11.Village Panchayat of Paliem,
through its Secretary,
Paliem, Pernem, Goa.

12.Public Work Department,
through its Executive Engineer,
Division V (Bldg.-North),
Panaji-Goa.

13.Government of Goa,
through its chief Secretary,
Secretariat, Panaji-Goa.

14.Collector of North Goa,
Panaji-Goa.

15.Mr. Bhaskar Babli Naik,
PWD Contractor,
Naikwada, Mandrem, Pernem, Goa.

16.The Secretary, Department of Statistics
and Programme Implementation,
Ministry of Planning and Development
Implementation, Sardar Pattel Bhavan,
New Delhi. .... Respondents

Shri Sudin Usgaonkar, Advocate for the Appellants.
Shri S.D. Lotlikar, Sr. Advocate with Shri R. Menezes, Advocates for Respondents no. 1 to 3, 7, 8, 10 & 15.
Shri Amit Palekar, Advocate for Respondent No.11.

CORAM : **P.V. KAKADE, J.**

DATE : **28th NOVEMBER, 2006**

ORAL JUDGMENT :

Heard all the concerned parties. Perused the record.

2. The appellants-plaintiffs have filed this appeal against the order passed by the Additional District Judge, North Goa, Panaji, dismissing the application for temporary injunction and issuing direction to maintain status quo.

3. After hearing both the parties, it is apparent that the dispute between the parties was in respect of the control of the hall constructed at Devasthan-defendant no.1. The said construction was apparently made, out of the funds provided by the Central Government, which aspect created complications regarding utilisation of the hall constructed in the temple. Further, it is submitted that pending the appeal, the construction of the hall is complete and steps are being taken to refund the amount of the funds granted by the Central Government, so as to bring an end to the dispute between the parties. However, these aspects are contentions taken up before the trial Court in pending the suit and, therefore, we need not go into those aspects.

4. So far as the present appeal is concerned, it has obviously become infructuous, in view of the fact that the construction is evidently complete and all the issues pertaining, have to be adjudicated at the time of final hearing.

5. Mr. Lotlikar, the learned Counsel for the respondents, in the meantime brought to my notice that by order dated 29/06/2004, the lower Court had granted application Exhibit 20 and, consequently, plaint came to be rejected as against defendant no.11 i.e. Panchayat Samiti.

6. However, inspite of this position, the Panchayat Samiti is very much party to the present appeal. This is due to the reason that this Court by order dated 10/09/2004 granted leave to amend, so as to implead original defendant no.11, Panchayat Samiti in this appeal, probably to assist the Court in settling the dispute. The learned Counsel for the Panchayat Samiti today makes a statement that they do not wish to interfere with the affairs of the hall, constructed in the temple-defendant no.1 and, therefore, I do not see any reason why this appeal required further prosecution as it is rendered infructuous.

7. In the result, the appeal stands disposed of as rendered infructuous with no order as to costs.

P.V. KAKADE, J.

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